

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Timothy Cottrell,

Petitioner,

v.

Case No. 1:07cv201

State of Ohio,

Judge Michael R. Barrett

Respondent.

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation filed September 11, 2007 (Doc. 12).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, the Court finds the Magistrate Judge's Report and Recommendation to be correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge (Doc. 12) is hereby **ADOPTED**. Petitioner's Motion for Default Judgment is **DENIED**. Respondent's Motion to Dismiss (Doc. 10) is **GRANTED**.

A certificate of appealability as well an appeal *in forma pauperis* will not issue from the United States District Court. However, Petitioner is free to request issuance of a certificate of appeal including to proceed *in forma pauperis* from the Sixth Circuit Court of Appeals. This action is closed.

IT IS SO ORDERED.

bac

September 28, 2007

/s/ Michael R. Barrett
Michael R. Barrett, Judge
United States District Court